

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/SB 1076

INTRODUCER: Judiciary Committee and Senator Brandes and others

SUBJECT: Clerks of the Circuit Court

DATE: March 11, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tulloch	Cibula	JU	Fav/CS
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB1076 makes changes to the clerks of the circuit courts' budget estimating process. The bill expands the revenue sources which may be used in developing the clerks' budgets to include:

- Unspent revenues carried forward from the prior fiscal year;
- Budget amendments; and
- Appropriations made by law for the purpose of funding court-related functions.

The bill also expands the Florida Clerks of Court Operations Corporation's (Corporation) budget approval authority, including permitting the Corporation to set aside 1 percent of estimated fiscal year reserves, the amount of which it must certify quarterly to the Department of Revenue. Additionally, the bill eliminates the automatic transfer of excess revenues from the Clerks of Court Trust Fund to the General Revenue Fund.

Significantly, the bill permits the clerks to be reimbursed quarterly for filing fees in non-fee cases at \$195 per case *if* the Legislature appropriates this money to the Clerks of Court Trust Fund. To fund the \$195 reimbursement in non-fee cases, the clerks request that \$39,220,115 in recurring funds from the General Revenue Fund be transferred to the Clerks of Court Trust Fund.

The effective date of the bill is October 1, 2019.

II. Present Situation:

Clerk of the Circuit Court

The clerk of the circuit court is a constitutional officer. Each of Florida's 67 counties are required to elect a clerk of the circuit court¹ to serve as both the clerk of court, completing judiciary functions, and as the “*ex officio*”² clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds.”³ In other words, the clerk of the circuit court wears approximately five hats. In wearing the auditor and custodian of county funds hats, the clerk may also be referred to as the comptroller.⁴

Funding for the Clerks’ Court-Related Functions

In its capacity as the clerk of the circuit and county courts, the clerk is required to perform various court-related, administrative and ministerial functions. Any court-related function authorized by law or court rule must be funded by the clerk’s collection of filing fees, service charges, costs, and fines, including the following:

- Case maintenance.
- Records management.
- Court preparation and attendance.
- Processing the assignment, reopening, and reassignment of cases.
- Processing appeals.
- Collection and distribution of fines, fees, service charges, and court costs.
- Data collection and reporting.
- Determinations of indigent status.
- Paying reasonable administrative support costs to enable the clerks to carry out court-related functions.⁵

Court funding is governed by section 14, article V of the Florida Constitution. For the clerks of the circuit courts, article V, section 14(b) provides that the clerks are self-sustaining and fund their court-related functions through the collection of filing fees, service charges, and other costs. Specifically, article V, section 14(b) states:

(b) All funding for the offices of the clerks of the circuit and county courts performing court-related functions, except as otherwise provided in this subsection and subsection (c), shall be provided by adequate and appropriate

¹ FLA. CONST. art. V, s. 16; FLA. CONST. art. VIII, s. 1.

² See BLACK’S LAW DICTIONARY (10th ed. 2014) (“*ex officio*” means “By virtue or because of an office; by virtue of the authority implied by office.”).

³ FLA. CONST. art. V, s. 16. This provision also provides that two officials may split the position, one serving as clerk of court and one serving in the *ex officio* position. Additionally, this provision permits the election of a county clerk of court when authorized by general or special law. *Id.*

⁴ See generally Florida Court Clerks & Comptrollers, *About Us, Clerks Duties & Services*, available at <https://www.flclerks.com/page/ClerksDuties> (last visited March 6, 2019). See also BLACK’S LAW DICTIONARY (10th ed. 2014) (“comptroller” means “An officer of a business or a private, state, or municipal corporation who is charged with duties usu. relating to fiscal affairs, including auditing and examining accounts and reporting the financial status periodically.”).

⁵ Section 28.35(3)(a), F.S. See also Florida Court Clerks & Comptrollers, *About Us, Clerks Duties & Services*, available at <https://www.flclerks.com/page/ClerksDuties> (last visited March 6, 2019).

filing fees for judicial proceedings and service charges and costs for performing court-related functions as required by general law. Selected salaries, costs, and expenses of the state courts system may be funded from appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions, as provided by general law. Where the requirements of either the United States Constitution or the Constitution of the State of Florida preclude the imposition of filing fees for judicial proceedings and service charges and costs for performing court-related functions sufficient to fund the court-related functions of the offices of the clerks of the circuit and county courts, the state shall provide, as determined by the Legislature, adequate and appropriate supplemental funding from state revenues appropriated by general law.⁶

County Funding Referenced in Article V, Section 14(c)

As referenced above, article V, section 14(c) of the Florida Constitution states that while funding for the state courts system, including the clerks of court, will *not* be required by a county or municipality, the counties are responsible to fund certain types of court infrastructure and maintenance, including “the cost of communications services, existing radio systems, existing multi-agency criminal justice information systems and the cost of construction or lease, maintenance, utilities, and security of facilities for . . . the offices of the clerks of the circuit and county courts performing court-related functions.”⁷ Additionally, counties pay “reasonable and necessary salaries, costs, and expenses of the state courts system to meet local requirements as determined by general law.”⁸

No-Fee Court Functions

Additionally, as referenced above, there are certain categories of cases and certain types of filings for which the clerks of court cannot charge a filing fee and possibly other service charges or other costs. These types of cases and filings include the following:

- Various services and filings for indigent parties to pending litigation.⁹
- Petitions for Habeas Corpus filed by persons detained as mental health patients.¹⁰
- Filing an ex parte order for involuntary examination (Baker Act).¹¹
- Petitions for involuntary inpatient placement for mental health.¹²
- Appellate filing fees for indigent persons determined to be and involuntarily committed as a sexually violent predator.¹³
- Petitions for involuntary assessment and stabilization for substance abuse impairment.¹⁴

⁶ FLA. CONST. art. V, s. 14(b), Fla. Const. (emphasis added).

⁷ FLA. CONST. art. V, s. 14(c).

⁸ *Id.* Additionally, article V, section 14(a) provides that funding for state court systems as well as state attorney’s offices, public defender’s offices, and court-appointed counsel will generally be paid from “state revenues appropriated by general law; and section 14(d) clarifies that the court system has no appropriations authority.

⁹ Sections 57.081 and 57.082, F.S. This does not include prisoners as defined in s. 57.085, F.S.

¹⁰ Section 394.459, F.S.

¹¹ Section 394.463, F.S. *See also Collins v. State*, 125 So. 3d 1046, 1047 (Fla. 4th DCA 2013) (noting section 394.463, F.S. is also known as the Florida Statutes Florida Mental Health Act or *Baker Act*).

¹² Section 394.467, F.S.

¹³ Section 394.917, F.S.

¹⁴ Section 397.6814, F.S.

- Petitions for a risk protection order (Marjory Stoneman Douglas High School Public Safety Act).¹⁵
- Petitions for protective injunctions against domestic violence,¹⁶ repeat, dating, or sexual violence,¹⁷ or stalking.¹⁸

History of the Clerks of Court Funding Model

1998 Article V Revision (“Revision 7”) and Implementing Legislation

Section 14 of article V was amended in 1998 to “substantially and significantly revise[] judicial system funding, greatly reducing funding from local governments and placing the responsibility primarily on the state.”¹⁹ The statement of intent accompanying the revision of article V, section 14(b), also known as “Revision 7,” reflects that the proposers intended for the Legislature to adopt procedures (1) to fund the clerks’ office in the event “filing fees, services charges and costs are insufficient to cover the court-related salaries, costs, and expenses of the offices of the clerks . . . in a given fiscal year”; and (2) for the disposition of excess revenues collected by the clerks’ offices in a given fiscal year.²⁰

Further, the statement of intent clarifies that the purpose for Revision 7 is to require legislative oversight and an independent review of clerk funding and spending practices. The reason for independent oversight is set out as follows:

The drafters of subsection (b) recognize that there currently exists significant disparities among what the various clerks’ offices spend to perform the same functions. The determination by the [L]egislature as to the appropriate level of spending should not entail an acceptance of the current level of spending by the clerks’ offices throughout the state to perform court-related functions. Rather, it is the intent of this proposal that the clerks be held accountable and responsible to a cost standard which is independently established by the [L]egislature.²¹

Revision 7’s 1998 amendment to Article V had to be implemented by July 1, 2004.²² In order to implement the 1998 amendment, the Legislature responded “in stages, beginning with passage of SB 1212 in 2000 (Chapter 200-237, Laws of Florida), followed by additional changes to that law in 2001, and, finally in 2002, through the funding of a study to assist in the final phase of implementation.”²³

¹⁵ Section 790.401, F.S.; Ch. 2018-3, s. 16, Laws of Fla.

¹⁶ Section 741.30, F.S.

¹⁷ Section 784.046, F.S.

¹⁸ Section 784.0485, F.S.

¹⁹ *City of Fort Lauderdale v. Crowder*, 983 So.2d 37, 39 (Fla. 4th DCA 2008) (“In its Statement of Intent, the Constitution Revision Commission explained: ‘The state’s obligation includes, but is not limited to, funding for all core functions and requirements of the state courts system and all other court-related functions and requirements *which are statewide in nature.*’ [e.s.] 26 Fla. Stat. Ann. (Supp.) 67.”).

²⁰ William A. Buzzett and Deborah K. Kearney, *Commentary <1998 Amendment (1997-1998 Constitution Revision Commission Revision 7)>*, FLA. STAT. ANN., FLA. CONST. art. V. s. 14.

²¹ *Id.*

²² *Office of State Attorney for Eleventh Judicial Circuit v. Polites*, 904 So. 2d 527, 530 (Fla. 3d DCA 2005).

²³ Florida Staff Analysis, H.B. 113A, 5/14/2003.

The final stage was implemented during the 2003 legislative session. To provide Revision 7's envisioned oversight, accountability, uniformity, and procedures in funding and budgeting for the clerks of court, the Legislature enacted **sections 28.35, 28.36, and 28.37, F.S.**²⁴:

- **Section 28.35, F.S.** created the Florida Clerks of Court Operations Corporation (“Corporation”)²⁵ which is responsible to provide accountability, procedural review, and oversight to the clerks of court budgeting process throughout the state.
- **Section 28.36, F.S.**, established budget review and approval procedures of individual clerk of court budgets by the Corporation.
- **Section 28.37, F.S.** ensures that a portion of certain fines, fees, service charges and costs collected by the clerks of court are remitted to the state to fund other court-related salaries, costs, and expenses.

Post-Article V Revision to Clerk Funding: 2004-2008²⁶

Between 2004 and 2008, the clerks collected and deposited into their local fine and forfeiture funds revenues from court filing fees, service charges, court costs, and fines assessed in civil and criminal proceedings.²⁷ A portion of the revenues in a clerk's fine and forfeiture fund was retained to finance the clerk's operations. However, another portion of these revenues were distributed to the General Revenue Fund or other state trust funds to meet other court-related costs. For example, the clerks were required to remit one-third of all fines, fees, service charges, and costs collected to the Department of Revenue for deposit into the Clerk of the Court Trust Fund,²⁸ a fund established to assist the clerks in meeting revenue deficits.

Regarding budget planning, the clerks had discretion to set their individual budgets based on anticipated revenues and expenditures. Each clerk's proposed budget had to be balanced with estimated revenues equaling or exceeding anticipated expenditures, although the budget could include a 10% contingency reserve.²⁹ If a clerk estimated that available funds plus projected revenues were insufficient to meet anticipated expenditures for court-related functions, that clerk could follow the statutory procedure for receiving funds from the Clerks of the Court Trust Fund to address the deficit.³⁰

Each clerk had to submit its proposed budget to the Corporation for review and certification that the individual budget was complete and complied with budget procedures.³¹ Upon review and certification by the Corporation, revenue exceeding the amount needed to fund each budget was deposited in the General Revenue Fund.³²

²⁴ 2003 Fla. Sess. Law Serv. Ch. 2003-402 (H.B. 113-A). *See also City of Ft. Lauderdale v. Crowder*, 983 So. 2d 37, 39 (Fla. 4th DCA 2008). Note also that the bill seeks to amend each of these provisions.

²⁵ *See* n. 5 and text, *supra*. When it was first enacted, section 28.35 the “Clerk of court Operations Conference” which was changed in 2004 to the “Florida Clerks of Court Operations Corporation.” Ch. 2004-265, s. 23, Laws of Fla. All clerks are members of the Corporation.

²⁶ This section adapted or used in its entirety from the Appropriations Committee staff analysis in SB 2506 (2017).

²⁷ Section 142.01, F.S.

²⁸ Section 28.37(2), F.S. (2008).

²⁹ Section 28.36(3)(b), (c), F.S. (2008).

³⁰ Section 28.36(4), F.S. (2008).

³¹ Section 28.36(3), F.S. (2008).

³² Section 28.37(4), F.S. (2008).

During this time, the Legislature's involvement in the clerks' budgets was limited. The Legislative Budget Commission (LBC) had authority to approve increases to the maximum annual budgets approved for individual clerks if the additional funding was necessary to:

- Pay the cost of performing new or additional functions required by changes in law or court rule; or
- Pay the cost of supporting increases in the number of judges or magistrates authorized by the Legislature.³³

Clerks in the General Appropriations Act: 2009-2012³⁴

In an effort to gain greater oversight and accountability for the operations and funding of the clerks of court, the Legislature passed chapter 2009-204, L.O.F. which substantially amended the clerks' statutory budget process and procedures. The new law brought the clerks into the state budget and appropriated their funding in the annual General Appropriations Act.

More specifically, the 2009 law required that all revenues received by the clerks from court-related fees, fines, costs and service charges be remitted to the Department of Revenue for deposit into the Clerks of Court Trust Fund within the Justice Administrative Commission (JAC).³⁵ The law permitted the clerks, however, to deposit ten percent of all court-related fines in the Public Records Modernization Trust Fund to be used in addition to state appropriations for operational needs.³⁶

By 2009, revenues accruing to the Clerks of Court Trust Fund began to decline due to the downturn in the economy and the reduction in foreclosure filing fees. As a result, the Legislature reinforced the clerks' budgets with additional moneys from the General Revenue Fund. The 2011 Legislature appropriated \$44.2 million from the General Revenue Fund to address FY 2010-2011 revenue deficits and the 2012 Legislature appropriated \$57.6 million to address FY 2011-2012 deficits.

Return to Pre-2009 Funding Model: 2013-Present³⁷

In 2013, the Legislature reversed many of the 2009 funding model changes but expanded the oversight and accountability in the clerks' budget process. Significantly, the 2013 law³⁸ added the following:

- Monthly accounting: required each clerk to submit all collected revenues exceeding one-twelfth of the clerk's total budget for the prior month to the Department of Revenue for deposit into the Clerks of the Court Trust Fund.
- Annual accounting: required the transfer of revenue exceeding one-twelfth of the clerks' total budget out of the Clerks of Court Trust Fund into the General Revenue Fund each January

³³ Section 28.36(6), F.S. (2008).

³⁴ This section adapted or used in its entirety from the Appropriations Committee staff analysis in SB 2506 (2017).

³⁵ Ch. 2009-204, ss. 5-8, 12, 14, 19, Laws of Fla. The clerks' budgets were appropriated within the JAC budget from 2009-2012. *See also* s. 43.16, F.S. (establishes the Justice Administrative Commission, which administratively serves 49 judicial-related entities, as well as provides compliance and financial review of billings for services provided by private court-appointed attorneys representing indigent citizens and associated due process vendors).

³⁶ Section 28.37(5), F.S.

³⁷ This section adapted or used in its entirety from the Appropriations Committee staff analysis in SB 2506 (2017).

³⁸ Ch. 2013-44, Laws of Fla.

unless the official estimate by the Revenue Estimating Conference projects a trust fund deficit (based on the current budget) in the current or upcoming fiscal year.

- Corporation audits: directed the Corporation to conduct annual base budget reviews, conduct cost-comparisons of similarly situated clerks, report pay and benefit issues, and provide an explanation of any clerk expenditure increases over 3 percent.³⁹
- Corporation budget standard: required the Corporation to use the official Article V Revenue Estimating Conference revenue estimates for the clerks' budget process.⁴⁰

The 2013 law also enhanced the role and responsibilities of the Legislative Budget Commission (LBC), and directed the LBC to review the budgets of the clerks and either (1) approve, (2) disapprove, or (3) amend and approve the budgets by October 1 of each year.⁴¹ In 2017, however, the Legislature removed these duties from the LBC to review the clerks' budgets.⁴²

Current budget process⁴³

By June of each year:

- Each individual clerk must
 - Prepare, summarize and submit his or her proposed budget to the Corporation for the county fiscal year beginning October 1.⁴⁴
 - Ensure the budget is balanced so that aggregate estimated revenues (money in) equal or exceed the total anticipated expenditures (money out).⁴⁵
 - Notify the Corporation if the clerk estimates a deficit based on projected revenues will be insufficient to meet anticipated expenditures.⁴⁶
- Upon receipt of the clerk's budget, the Corporation must
 - Undertake an extensive review of the clerks' budgets using information such as cost comparisons with similarly situated clerks, a base budget review, and estimates of available revenues.
 - Ensure the total combined budgets of the clerks of court do not exceed the official revenue estimate prepared by the Article V Revenue Estimating Conference.^{47,48}
 - Verify any projected deficit and notify the Department of Revenue (DOR) that the specific clerk is authorized to draw down revenues from the Clerk of the Court Trust Fund to cover the deficit.⁴⁹

³⁹ Section 28.35(2)(f), F.S.

⁴⁰ Section 28.35(2)(f)6., F.S.

⁴¹ Section 11.90(6)(d), F.S.

⁴² Ch. 2017-126, s. 1, Laws of Fla.

⁴³ This section adapted or used in its entirety from the Appropriations Committee staff analysis in SB 2506 (2017).

⁴⁴ Section 28.36(2)(a), F.S.

⁴⁵ Section 28.36(2)(b), F.S.

⁴⁶ Section 28.36(3), F.S.

⁴⁷ Section 28.35(f), F.S.

⁴⁸ Section 216.136(3), F.S. authorizes Revenue Estimating Conferences (REC) to develop official information on anticipated state and local government revenues for state budgeting purposes. The Article V Fees and Transfers REC is one of at least 17 RECs and generally meets three times a year to estimate revenues from court fines, fees, penalties, and service charges. The results of the July Article V REC are used to set the budget for the clerks.

⁴⁹ Section 28.36(3), F.S.

By October 15, the Corporation must submit its legislative budget request.⁵⁰

Current budget problems

Since returning to the pre-2009 funding model in 2013, revenues to support the budgets of the clerks have not materialized as projected. There are two primary reasons for this. First, as the housing market has improved, fewer foreclosure filings have resulted in reduced filing fee revenues accruing to the clerks.

Second, the clerks' offices rely heavily on revenues generated by collecting fees for civil traffic citations. However, law enforcement officers have been issuing fewer traffic tickets resulting in declining revenues. For County Fiscal Year (CFY) 2015-16, the clerks reported 2,927,266 civil traffic cases which represents a 24 percent decline since CFY 2011-12. These cases represented 27 percent of total clerk revenues in CFY 2015-16 but only represented a fraction of total workload. Revenues from civil traffic cases support other case types, like circuit criminal cases, that require more workload to complete than their revenues generate.

In September 2015, while still under the Legislative Budget Commission (LBC), the LBC approved a CFY 2015-16 clerk budget of \$447.9 million based on the July 2015 projected Article V revenues combined with the "ten percent" funds accruing to the Public Records Modernization Trust Fund.⁵¹ However, for all of CFY 2015-16, the clerks reported the actual Article V revenues and all "ten percent" funds totaled \$419.3 million, a shortfall of \$28.6 million. The 2016 Legislature made a supplemental appropriation of \$12.9 million to help address the deficit, but the clerks were obligated to reduce their expenditures to address the remaining shortfall.⁵²

The clerks' revenue picture for CFY 2016-17 did not show signs of improvement. In September 2016, the LBC approved a budget of \$422.1 million for the clerks, a \$27.8 million reduction from the prior year's approved budget, which was based on the July 2016 Article V Revenue Estimating Conference showing continued declines in clerk revenues over the forecasted period. In February 2017, the Article V Revenue Estimating Conference revised downward its CFY 2016-17 estimate of projected revenues for the clerks by another \$10 million, observing continued weakness in traffic and foreclosure revenues.

For CFY 2017-18, the clerk's budget was reduced again to \$409.4 million based on projected revenues.⁵³ The Corporation reports that for CFY 2018-19, the budget is at least \$40 million short of projected actual costs.⁵⁴

⁵⁰ Section 28.35(f)(3), F.S.; s. 216.023(2), (3), F.S.

⁵¹ Section 28.37(5) permits the clerk to deposit ten percent of all court-related fines, with two exceptions, into the Public Records Modernization Trust Fund for court-related operational needs and program enhancements. The commission counts these funds as clerk revenue when approving the clerks' budgets.

⁵² Ch. 2016-66, s. 62, Laws of Fla.

⁵³ Florida Clerks of Courts Operations Corporation, *Discussion of Services, Budget, and Performance of the Clerks*, 3, (Nov. 5, 2018) (on file with the Senate Judiciary Committee).

⁵⁴ Florida Clerks of Courts Operations Corporation, *Modernizing the Budget Process so Clerks Can Serve Florida* (on file with the Senate Judiciary Committee).

In sum, the Corporation reports that between 2013 and 2019, the clerks' overall budget has fallen by \$47.7 million. However, the reduction in the clerks' budget is based on falling revenues, not on a decrease in the clerks' actual workload or responsibilities.

According to the Corporation, one reason for the loss of revenue without a corresponding reduction in workload is the increase in no-fee cases. The Corporation identifies three public policy decisions not to charge filings fees or other costs in certain cases that, while good, result in additional expenditures by the clerks' offices without additional revenues:

1. Access to Courts for those who are unable to pay (Indigency).
2. Exemption of certain types of cases from filing fees (Mental Health, Domestic Violence).
3. Waiver of filing fees to prosecute and process criminal and juvenile cases.⁵⁵

Additionally, the Corporation notes that the clerks have no statutory authority to maintain a reserve of funds.

III. Effect of Proposed Changes:

SB1076 makes changes to the clerks' budget estimating process, permitting the clerks to retain more revenues collected and providing for an ongoing, quarterly review process to ensure the clerks are adequately funded to perform their court-related functions.

Sections 1 amends s. 28.35(f), F.S., which sets out the duties of the Florida Clerks of Court Operations Corporation ("Corporation") in reviewing and approving the clerks' cumulative budgets. The bill expands funding sources the Corporation may look at in approving each clerk's individual budgets and the total combined budget for the clerks' offices beyond just the estimated revenues determined by the Revenue Estimating Conference. The Corporation must now ensure that the cumulative budget does not exceed:

- Revenues available for court-related expenditures estimated by the Revenue Estimating Conference; and
- Unspent revenues carried forward from the prior fiscal year; and
- Budget amendments; and
- Appropriated made by law for the purpose of funding court related functions.

Additionally, in determining the clerks' cumulative budget, the bill permits the Corporation to:

- Estimate additional budget authority necessary to pay the cost of performing new or additional functions resulting from a change in the law or a court rule; from the addition of new judges, magistrates; or to support senior judges and hearing officers, s. 28.35(f)(10); and
- Reserve up to 1 percent of total estimated funds, if any, available at the beginning of the fiscal year, and reserve midyear revenue increases without limit. Quarterly, the Corporation will certify the total amount of funds reserved to the Department of Revenue, s. 28.35(1)(f)(11).

The bill adds further procedures by which the Corporation may request additional funding from the Legislature or unobligated funds from the Governor to meet any funding deficits throughout the fiscal year; s. 28.35 (2)(i)-(m). The bill also permits technology costs directly associated with

⁵⁵ *Id.*

court-related functions as well as some due process and jury costs to be counted as court-related functions that may be funded by fines and fees; s. 28.35(3)(a), F.S.

Section 2 amends s. 28.36, F.S., which sets out the clerks' budget request procedures. The bill expands the funding sources available to the clerks in estimating their budgets to include:

- Unspent revenues carried forward from the prior fiscal year; and
- Budget amendments; and
- Appropriated made by law for the purpose of funding court related functions.

Section 3 amends s. 28.37, F.S., which concerns the transfer of revenues generated by the clerks to fund other court functions. The bill eliminates the automatic transfer of excess revenues beyond the clerks' estimated budget from the Clerks of Court Trust Fund to the General Revenue Fund by the Department of Revenue. Instead, the bill provides that the Corporation will certify and the Department of Revenue will review the excess revenues, presumably to determine what ought to be reserved and what can be transferred to the General Revenue Fund.

Section 4 through 13 adds a provision to reimburse the clerks of court to various statutes waiving the clerks' fees, i.e. "no-fee cases." The bill provides that the clerks of court may be reimbursed in these no-fee cases at a rate of \$195 each on a quarterly basis *if* the Legislature appropriates funding for that purpose and deposits it into the Clerks of Court Trust Fund. Procedurally, the clerks' offices would make a quarterly reimbursement request to the Corporation, and the Corporation would request authority from the Department of Revenue to release these earmarked, reimbursement funds from the Clerks of Court Trust Fund.

Sections 4 adds the reimbursement provision for the waiver of filing fees and other charges for parties to pending litigation who have already been declared indigent under s. 57.081(1), F.S.⁵⁶

Section 5, similarly, adds the reimbursement provision for the waiver of the petition fee by someone appealing a determination that he or she is not indigent under s. 57.082, F.S.

Sections 6, 7, and 8 add the reimbursement provision for the waiver of filing fees in several mental health provisions, respectively:

- Petitions for Habeas Corpus filed by persons detained as mental health patients under s. 394.459, F.S.
- Filing an ex parte order for involuntary examination (*Baker* Act order) under s. 394.463, F.S.
- Petitions for involuntary inpatient placement for mental health under s. 394.467, F.S.

Section 9 adds the reimbursement provision for appellate filing fees for indigent persons determined to be and involuntarily committed as a sexually violent predators under s. 394.917, F.S.

Section 10 adds the reimbursement provision for petitions for involuntary assessment and stabilization for substance abuse impairment under s. 397.6814, F.S.

⁵⁶ This does not include prisoners as defined in s. 57.085, F.S.

Section 11 adds the reimbursement provision for petitions for a risk protection order (Marjory Stoneman Douglas High School Public Safety Act) under s. 790.401, F.S.

Sections 12, 13, and 14 add the reimbursement provision for petitions for protective injunctions against domestic violence, repeat, sexual, or dating violence, and stalking in ss. 741.30, F.S., 784.046, F.S., and 784.0485, F.S., respectively.

Section 15 requests an appropriation of \$39,220,115 for the 2019-2020 fiscal from the General Revenue Fund to the Clerks of Court Trust Fund to cover the reimbursement of fees and other costs specified in the bill.

Section 16 provides the bill will be effective October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The state court system does not anticipate any fiscal impact resulting from the passage of the bill. Although the Department of Revenue is impacted, it has not indicated the extent to which it will be impacted operationally or fiscally.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 28.35, 28.36, 28.37, 57.081, 57.082, 394.459, 394.463, 394.467, 394.917, 397.6814, 790.401, 741.30, and 784.0485.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on March 11, 2019:

- Adding reimbursement language to s. 784.046, F.S. for non-fee petitions for a protective injunctions against repeat, sexual, and dating violence; providing for reimbursement of \$195 to clerks of court, subject to Legislative appropriation.
- Technical correction – adding a missing word on line 236 of the bill.

B. Amendments:

None.